

110TH CONGRESS
2D SESSION

S. 3336

To amend the Internal Revenue Code of 1986 to reduce our dependence on foreign oil by investing in clean, renewable, and alternative energy.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2008

Mrs. DOLE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to reduce our dependence on foreign oil by investing in clean, renewable, and alternative energy.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “New Clean Energy Tax Extenders Act”.

6 (b) REFERENCE.—Except as otherwise expressly pro-
7 vided, whenever in this Act an amendment or repeal is
8 expressed in terms of an amendment to, or repeal of, a
9 section or other provision, the reference shall be consid-

1 ered to be made to a section or other provision of the In-
 2 ternal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—EXTENSION OF CLEAN ENERGY PRODUCTION INCENTIVES

Sec. 101. Extension and modification of renewable energy production tax credit.

Sec. 102. Extension and modification of solar energy and fuel cell investment
tax credit.

Sec. 103. Extension and modification of residential energy efficient property
credit.

Sec. 104. Extension and modification of credit for clean renewable energy
bonds.

Sec. 105. Extension of special rule to implement FERC restructuring policy.

TITLE II—EXTENSION OF INCENTIVES TO IMPROVE ENERGY EFFICIENCY

Sec. 201. Extension and modification of credit for energy efficiency improve-
ments to existing homes.

Sec. 202. Extension and modification of tax credit for energy efficient new
homes.

Sec. 203. Extension and modification of energy efficient commercial buildings
deduction.

Sec. 204. Modification and extension of energy efficient appliance credit for ap-
pliances produced after 2007.

TITLE III—REVENUE PROVISIONS

Sec. 301. Denial of deduction for major integrated oil companies for income at-
tributable to domestic production of oil, gas, or primary prod-
ucts thereof.

Sec. 302. Elimination of the different treatment of foreign oil and gas extrac-
tion income and foreign oil related income for purposes of the
foreign tax credit.

1 **TITLE I—EXTENSION OF CLEAN**
 2 **ENERGY PRODUCTION INCEN-**
 3 **TIVES**

4 **SEC. 101. EXTENSION AND MODIFICATION OF RENEWABLE**
 5 **ENERGY PRODUCTION TAX CREDIT.**

6 (a) EXTENSION OF CREDIT.—Each of the following
 7 provisions of section 45(d) (relating to qualified facilities)
 8 is amended by striking “January 1, 2009” and inserting
 9 “January 1, 2013”:

10 (1) Paragraph (1).

11 (2) Clauses (i) and (ii) of paragraph (2)(A).

12 (3) Clauses (i)(I) and (ii) of paragraph (3)(A).

13 (4) Paragraph (4).

14 (5) Paragraph (5).

15 (6) Paragraph (6).

16 (7) Paragraph (7).

17 (8) Paragraph (8).

18 (9) Subparagraphs (A) and (B) of paragraph

19 (9).

20 (b) PRODUCTION CREDIT FOR ELECTRICITY PRO-
 21 DUCED FROM MARINE RENEWABLES.—

22 (1) IN GENERAL.—Paragraph (1) of section
 23 45(c) (relating to resources) is amended by striking
 24 “and” at the end of subparagraph (G), by striking
 25 the period at the end of subparagraph (H) and in-

1 serting “, and”, and by adding at the end the fol-
 2 lowing new subparagraph:

3 “(I) marine and hydrokinetic renewable en-
 4 ergy.”.

5 (2) MARINE RENEWABLES.—Subsection (c) of
 6 section 45 is amended by adding at the end the fol-
 7 lowing new paragraph:

8 “(10) MARINE AND HYDROKINETIC RENEW-
 9 ABLE ENERGY.—

10 “(A) IN GENERAL.—The term ‘marine and
 11 hydrokinetic renewable energy’ means energy
 12 derived from—

13 “(i) waves, tides, and currents in
 14 oceans, estuaries, and tidal areas,

15 “(ii) free flowing water in rivers,
 16 lakes, and streams,

17 “(iii) free flowing water in an irriga-
 18 tion system, canal, or other man-made
 19 channel, including projects that utilize non-
 20 mechanical structures to accelerate the
 21 flow of water for electric power production
 22 purposes, or

23 “(iv) differentials in ocean tempera-
 24 ture (ocean thermal energy conversion).

1 “(B) EXCEPTIONS.—Such term shall not
 2 include any energy which is derived from any
 3 source which utilizes a dam, diversionary struc-
 4 ture (except as provided in subparagraph
 5 (A)(iii)), or impoundment for electric power
 6 production purposes.”.

7 (3) DEFINITION OF FACILITY.—Subsection (d)
 8 of section 45 is amended by adding at the end the
 9 following new paragraph:

10 “(11) MARINE AND HYDROKINETIC RENEW-
 11 ABLE ENERGY FACILITIES.—In the case of a facility
 12 producing electricity from marine and hydrokinetic
 13 renewable energy, the term ‘qualified facility’ means
 14 any facility owned by the taxpayer—

15 “(A) which has a nameplate capacity rat-
 16 ing of at least 150 kilowatts, and

17 “(B) which is originally placed in service
 18 on or after the date of the enactment of this
 19 paragraph and before January 1, 2013.”.

20 (4) CREDIT RATE.—Subparagraph (A) of sec-
 21 tion 45(b)(4) is amended by striking “or (9)” and
 22 inserting “(9), or (11)”.

23 (5) COORDINATION WITH SMALL IRRIGATION
 24 POWER.—Paragraph (5) of section 45(d), as amend-
 25 ed by subsection (a), is amended by striking “Janu-

1 ary 1, 2010” and inserting “the date of the enact-
2 ment of paragraph (11)”.

3 (c) SALES OF ELECTRICITY TO REGULATED PUBLIC
4 UTILITIES TREATED AS SALES TO UNRELATED PER-
5 SONS.—Section 45(e)(4) (relating to related persons) is
6 amended by adding at the end the following new sentence:
7 “A taxpayer shall be treated as selling electricity to an
8 unrelated person if such electricity is sold to a regulated
9 public utility (as defined in section 7701(a)(33)).”.

10 (d) TRASH FACILITY CLARIFICATION.—Paragraph
11 (7) of section 45(d) is amended—

12 (1) by striking “facility which burns” and in-
13 serting “facility (other than a facility described in
14 paragraph (6)) which uses”, and

15 (2) by striking “COMBUSTION”.

16 (e) EFFECTIVE DATES.—

17 (1) EXTENSION.—The amendments made by
18 subsection (a) shall apply to property originally
19 placed in service after December 31, 2008.

20 (2) MODIFICATIONS.—The amendments made
21 by subsections (b) and (c) shall apply to electricity
22 produced and sold after the date of the enactment
23 of this Act, in taxable years ending after such date.

24 (3) TRASH FACILITY CLARIFICATION.—The
25 amendments made by subsection (d) shall apply to

1 electricity produced and sold before, on, or after De-
 2 cember 31, 2007.

3 **SEC. 102. EXTENSION AND MODIFICATION OF SOLAR EN-**
 4 **ERGY AND FUEL CELL INVESTMENT TAX**
 5 **CREDIT.**

6 (a) EXTENSION OF CREDIT.—

7 (1) SOLAR ENERGY PROPERTY.—Paragraphs
 8 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating
 9 to energy credit) are each amended by striking
 10 “January 1, 2009” and inserting “January 1,
 11 2017”.

12 (2) FUEL CELL PROPERTY.—Subparagraph (E)
 13 of section 48(c)(1) (relating to qualified fuel cell
 14 property) is amended by striking “December 31,
 15 2008” and inserting “January 1, 2017”.

16 (3) QUALIFIED MICROTURBINE PROPERTY.—
 17 Subparagraph (E) of section 48(c)(2) (relating to
 18 qualified microturbine property) is amended by
 19 striking “December 31, 2008” and inserting “Janu-
 20 ary 1, 2017”.

21 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
 22 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
 23 38(c)(4) (relating to specified credits) is amended by strik-
 24 ing “and” at the end of clause (iii), by striking the period

1 at the end of clause (iv) and inserting “, and”, and by
 2 adding at the end the following new clause:

3 “(v) the credit determined under sec-
 4 tion 46 to the extent that such credit is at-
 5 tributable to the energy credit determined
 6 under section 48.”.

7 (c) REPEAL OF DOLLAR PER KILOWATT LIMITATION
 8 FOR FUEL CELL PROPERTY.—

9 (1) IN GENERAL.—Section 48(c)(1) (relating to
 10 qualified fuel cell), as amended by subsection (a)(2),
 11 is amended by striking subparagraph (B) and by re-
 12 designating subparagraphs (C), (D), and (E) as sub-
 13 paragraphs (B), (C), and (D), respectively.

14 (2) CONFORMING AMENDMENT.—Section
 15 48(a)(1) is amended by striking “paragraphs (1)(B)
 16 and (2)(B) of subsection (c)” and inserting “sub-
 17 section (c)(2)(B)”.

18 (d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN
 19 INTO ACCOUNT.—

20 (1) IN GENERAL.—Paragraph (3) of section
 21 48(a) is amended by striking the second sentence
 22 thereof.

23 (2) CONFORMING AMENDMENTS.—

24 (A) Paragraph (1) of section 48(c), as
 25 amended by this section, is amended by striking

1 subparagraph (C) and redesignating subpara-
2 graph (D) as subparagraph (C).

3 (B) Paragraph (2) of section 48(c), as
4 amended by subsection (a)(3), is amended by
5 striking subparagraph (D) and redesignating
6 subparagraph (E) as subparagraph (D).

7 (e) EFFECTIVE DATES.—

8 (1) EXTENSION.—The amendments made by
9 subsection (a) shall take effect on the date of the en-
10 actment of this Act.

11 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
12 IMUM TAX.—The amendments made by subsection
13 (b) shall apply to credits determined under section
14 46 of the Internal Revenue Code of 1986 in taxable
15 years beginning after the date of the enactment of
16 this Act and to carrybacks of such credits.

17 (3) FUEL CELL PROPERTY AND PUBLIC ELEC-
18 TRIC UTILITY PROPERTY.—The amendments made
19 by subsections (c) and (d) shall apply to periods
20 after the date of the enactment of this Act, in tax-
21 able years ending after such date, under rules simi-
22 lar to the rules of section 48(m) of the Internal Rev-
23 enue Code of 1986 (as in effect on the day before
24 the date of the enactment of the Revenue Reconcili-
25 ation Act of 1990).

1 **SEC. 103. EXTENSION AND MODIFICATION OF RESIDENTIAL**
 2 **ENERGY EFFICIENT PROPERTY CREDIT.**

3 (a) EXTENSION.—Section 25D(g) (relating to termi-
 4 nation) is amended by striking “December 31, 2008” and
 5 inserting “December 31, 2012”.

6 (b) NO DOLLAR LIMITATION FOR CREDIT FOR
 7 SOLAR ELECTRIC PROPERTY.—

8 (1) IN GENERAL.—Section 25D(b)(1) (relating
 9 to maximum credit) is amended by striking subpara-
 10 graph (A) and by redesignating subparagraphs (B)
 11 and (C) as subparagraphs (A) and (B), respectively.

12 (2) CONFORMING AMENDMENTS.—Section
 13 25D(e)(4) is amended—

14 (A) by striking clause (i) in subparagraph
 15 (A),

16 (B) by redesignating clauses (ii) and (iii)
 17 in subparagraph (A) as clauses (i) and (ii), re-
 18 spectively, and

19 (C) by striking “, (2),” in subparagraph
 20 (C).

21 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
 22 IMUM TAX.—

23 (1) IN GENERAL.—Subsection (c) of section
 24 25D is amended to read as follows:

25 “(c) LIMITATION BASED ON AMOUNT OF TAX;
 26 CARRYFORWARD OF UNUSED CREDIT.—

1 “(1) LIMITATION BASED ON AMOUNT OF
2 TAX.—In the case of a taxable year to which section
3 26(a)(2) does not apply, the credit allowed under
4 subsection (a) for the taxable year shall not exceed
5 the excess of—

6 “(A) the sum of the regular tax liability
7 (as defined in section 26(b)) plus the tax im-
8 posed by section 55, over

9 “(B) the sum of the credits allowable
10 under this subpart (other than this section) and
11 section 27 for the taxable year.

12 “(2) CARRYFORWARD OF UNUSED CREDIT.—

13 “(A) RULE FOR YEARS IN WHICH ALL
14 PERSONAL CREDITS ALLOWED AGAINST REG-
15 ULAR AND ALTERNATIVE MINIMUM TAX.—In
16 the case of a taxable year to which section
17 26(a)(2) applies, if the credit allowable under
18 subsection (a) exceeds the limitation imposed by
19 section 26(a)(2) for such taxable year reduced
20 by the sum of the credits allowable under this
21 subpart (other than this section), such excess
22 shall be carried to the succeeding taxable year
23 and added to the credit allowable under sub-
24 section (a) for such succeeding taxable year.

“(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting “and section 25D” after “this section”.

(B) Section 24(b)(3)(B) is amended by striking “and 25B” and inserting “, 25B, and 25D”.

(C) Section 25B(g)(2) is amended by striking “section 23” and inserting “sections 23 and 25D”.

(D) Section 26(a)(1) is amended by striking “and 25B” and inserting “25B, and 25D”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

1 (2) APPLICATION OF EGTRRA SUNSET.—The
 2 amendments made by subparagraphs (A) and (B) of
 3 subsection (c)(2) shall be subject to title IX of the
 4 Economic Growth and Tax Relief Reconciliation Act
 5 of 2001 in the same manner as the provisions of
 6 such Act to which such amendments relate.

7 **SEC. 104. EXTENSION AND MODIFICATION OF CREDIT FOR**
 8 **CLEAN RENEWABLE ENERGY BONDS.**

9 (a) EXTENSION.—Section 54(m) (relating to termi-
 10 nation) is amended by striking “December 31, 2008” and
 11 inserting “December 31, 2012”.

12 (b) INCREASE IN NATIONAL LIMITATION.—Section
 13 54(f) (relating to limitation on amount of bonds des-
 14 ignated) is amended—

15 (1) by inserting “, and for the period beginning
 16 after the date of the enactment of the New Clean
 17 Energy Tax Extenders Act and ending before Janu-
 18 ary 1, 2013, \$400,000,000” after “\$1,200,000,000”
 19 in paragraph (1),

20 (2) by striking “\$750,000,000 of the” in para-
 21 graph (2) and inserting “\$750,000,000 of the
 22 \$1,200,000,000”, and

23 (3) by striking “bodies” in paragraph (2) and
 24 inserting “bodies, and except that the Secretary may
 25 not allocate more than $\frac{1}{3}$ of the \$400,000,000 na-

1 tional clean renewable energy bond limitation to fi-
 2 nance qualified projects of qualified borrowers which
 3 are public power providers nor more than $\frac{1}{3}$ of such
 4 limitation to finance qualified projects of qualified
 5 borrowers which are mutual or cooperative electric
 6 companies described in section 501(c)(12) or section
 7 1381(a)(2)(C)’’.

8 (c) PUBLIC POWER PROVIDERS DEFINED.—Section
 9 54(j) is amended—

10 (1) by adding at the end the following new
 11 paragraph:

12 “(6) PUBLIC POWER PROVIDER.—The term
 13 ‘public power provider’ means a State utility with a
 14 service obligation, as such terms are defined in sec-
 15 tion 217 of the Federal Power Act (as in effect on
 16 the date of the enactment of this paragraph).”, and

17 (2) by inserting “; PUBLIC POWER PROVIDER”
 18 before the period at the end of the heading.

19 (d) TECHNICAL AMENDMENT.—The third sentence of
 20 section 54(e)(2) is amended by striking “subsection
 21 (l)(6)” and inserting “subsection (l)(5)”.

22 (e) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to bonds issued after the date of
 24 the enactment of this Act.

1 **SEC. 105. EXTENSION OF SPECIAL RULE TO IMPLEMENT**
2 **FERC RESTRUCTURING POLICY.**

3 (a) QUALIFYING ELECTRIC TRANSMISSION TRANS-
4 ACTION.—

5 (1) IN GENERAL.—Section 451(i)(3) (defining
6 qualifying electric transmission transaction) is
7 amended by striking “January 1, 2008” and insert-
8 ing “January 1, 2012”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by this subsection shall apply to transactions after
11 December 31, 2007.

12 (b) INDEPENDENT TRANSMISSION COMPANY.—

13 (1) IN GENERAL.—Section 451(i)(4)(B)(ii) (de-
14 fining independent transmission company) is amend-
15 ed by striking “December 31, 2007” and inserting
16 “the date which is 5 years after the date of such
17 transaction”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by this subsection shall take effect as if included in
20 the amendments made by section 909 of the Amer-
21 ican Jobs Creation Act of 2004.

1 **TITLE II—EXTENSION OF INCEN-**
 2 **TIVES TO IMPROVE ENERGY**
 3 **EFFICIENCY**

4 **SEC. 201. EXTENSION AND MODIFICATION OF CREDIT FOR**
 5 **ENERGY EFFICIENCY IMPROVEMENTS TO EX-**
 6 **ISTING HOMES.**

7 (a) EXTENSION OF CREDIT.—Section 25C(g) (relat-
 8 ing to termination) is amended by striking “December 31,
 9 2007” and inserting “December 31, 2011”.

10 (b) QUALIFIED BIOMASS FUEL PROPERTY.—

11 (1) IN GENERAL.—Section 25C(d)(3) is amend-
 12 ed—

13 (A) by striking “and” at the end of sub-
 14 paragraph (D),

15 (B) by striking the period at the end of
 16 subparagraph (E) and inserting “, and”, and

17 (C) by adding at the end the following new
 18 subparagraph:

19 “(F) a stove which uses the burning of bio-
 20 mass fuel to heat a dwelling unit located in the
 21 United States and used as a residence by the
 22 taxpayer, or to heat water for use in such a
 23 dwelling unit, and which has a thermal effi-
 24 ciency rating of at least 75 percent.”.

1 (2) BIOMASS FUEL.—Section 25C(d) (relating
2 to residential energy property expenditures) is
3 amended by adding at the end the following new
4 paragraph:

5 “(6) BIOMASS FUEL.—The term ‘biomass fuel’
6 means any plant-derived fuel available on a renew-
7 able or recurring basis, including agricultural crops
8 and trees, wood and wood waste and residues (in-
9 cluding wood pellets), plants (including aquatic
10 plants), grasses, residues, and fibers.”.

11 (c) MODIFICATIONS OF STANDARDS FOR ENERGY-
12 EFFICIENT BUILDING PROPERTY.—

13 (1) ELECTRIC HEAT PUMPS.—Subparagraph
14 (B) of section 25C(d)(3) is amended to read as fol-
15 lows:

16 “(A) an electric heat pump which achieves
17 the highest efficiency tier established by the
18 Consortium for Energy Efficiency, as in effect
19 on January 1, 2008.”.

20 (2) CENTRAL AIR CONDITIONERS.—Section
21 25C(d)(3)(D) is amended by striking “2006” and
22 inserting “2008”.

23 (3) WATER HEATERS.—Subparagraph (E) of
24 section 25C(d) is amended to read as follows:

1 “(E) a natural gas, propane, or oil water
2 heater which has either an energy factor of at
3 least 0.80 or a thermal efficiency of at least 90
4 percent.”.

5 (4) OIL FURNACES AND HOT WATER BOIL-
6 ERS.—Paragraph (4) of section 25C(d) is amended
7 to read as follows:

8 “(4) QUALIFIED NATURAL GAS, PROPANE, AND
9 OIL FURNACES AND HOT WATER BOILERS.—

10 “(A) QUALIFIED NATURAL GAS FUR-
11 NACE.—The term ‘qualified natural gas fur-
12 nace’ means any natural gas furnace which
13 achieves an annual fuel utilization efficiency
14 rate of not less than 95.

15 “(B) QUALIFIED NATURAL GAS HOT
16 WATER BOILER.—The term ‘qualified natural
17 gas hot water boiler’ means any natural gas hot
18 water boiler which achieves an annual fuel utili-
19 zation efficiency rate of not less than 90.

20 “(C) QUALIFIED PROPANE FURNACE.—
21 The term ‘qualified propane furnace’ means any
22 propane furnace which achieves an annual fuel
23 utilization efficiency rate of not less than 95.

24 “(D) QUALIFIED PROPANE HOT WATER
25 BOILER.—The term ‘qualified propane hot

1 water boiler’ means any propane hot water boil-
 2 er which achieves an annual fuel utilization effi-
 3 ciency rate of not less than 90.

4 “(E) QUALIFIED OIL FURNACES.—The
 5 term ‘qualified oil furnace’ means any oil fur-
 6 nace which achieves an annual fuel utilization
 7 efficiency rate of not less than 90.

8 “(F) QUALIFIED OIL HOT WATER BOIL-
 9 ER.—The term ‘qualified oil hot water boiler’
 10 means any oil hot water boiler which achieves
 11 an annual fuel utilization efficiency rate of not
 12 less than 90.”.

13 (d) EFFECTIVE DATE.—The amendments made this
 14 section shall apply to expenditures made after December
 15 31, 2007.

16 **SEC. 202. EXTENSION AND MODIFICATION OF TAX CREDIT**
 17 **FOR ENERGY EFFICIENT NEW HOMES.**

18 (a) EXTENSION OF CREDIT.—Subsection (g) of sec-
 19 tion 45L (relating to termination) is amended by striking
 20 “December 31, 2008” and inserting “December 31,
 21 2012”.

22 (b) ALLOWANCE FOR CONTRACTOR’S PERSONAL
 23 RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is
 24 amended to read as follows:

1 “(B)(i) acquired by a person from such eli-
 2 gible contractor and used by any person as a
 3 residence during the taxable year, or

4 “(ii) used by such eligible contractor as a
 5 residence during the taxable year.”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to homes acquired after December
 8 31, 2008.

9 **SEC. 203. EXTENSION AND MODIFICATION OF ENERGY EF-**
 10 **FICIENT COMMERCIAL BUILDINGS DEDUC-**
 11 **TION.**

12 (a) EXTENSION.—Section 179D(h) (relating to ter-
 13 mination) is amended by striking “December 31, 2008”
 14 and inserting “December 31, 2012”.

15 (b) ADJUSTMENT OF MAXIMUM DEDUCTION
 16 AMOUNT.—

17 (1) IN GENERAL.—Subparagraph (A) of section
 18 179D(b)(1) (relating to maximum amount of deduc-
 19 tion) is amended by striking “\$1.80” and inserting
 20 “\$2.25”.

21 (2) PARTIAL ALLOWANCE.—Paragraph (1) of
 22 section 179D(d) is amended—

23 (A) by striking “\$.60” and inserting
 24 “\$0.75”, and

1 (B) by striking “\$1.80” and inserting
2 “\$2.25”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to property placed in service after
5 the date of the enactment of this Act.

6 **SEC. 204. MODIFICATION AND EXTENSION OF ENERGY EF-**
7 **FICIENT APPLIANCE CREDIT FOR APPLI-**
8 **ANCES PRODUCED AFTER 2007.**

9 (a) IN GENERAL.—Subsection (b) of section 45M (re-
10 lating to applicable amount) is amended to read as follows:

11 “(b) APPLICABLE AMOUNT.—For purposes of sub-
12 section (a)—

13 “(1) DISHWASHERS.—The applicable amount
14 is—

15 “(A) \$45 in the case of a dishwasher which
16 is manufactured in calendar year 2008 or 2009
17 and which uses no more than 324 kilowatt
18 hours per year and 5.8 gallons per cycle, and

19 “(B) \$75 in the case of a dishwasher
20 which is manufactured in calendar year 2008,
21 2009, or 2010 and which uses no more than
22 307 kilowatt hours per year and 5.0 gallons per
23 cycle (5.5 gallons per cycle for dishwashers de-
24 signed for greater than 12 place settings).

1 “(2) CLOTHES WASHERS.—The applicable
2 amount is—

3 “(A) \$75 in the case of a residential top-
4 loading clothes washer manufactured in cal-
5 endar year 2008 which meets or exceeds a 1.72
6 modified energy factor and does not exceed a
7 8.0 water consumption factor,

8 “(B) \$125 in the case of a residential top-
9 loading clothes washer manufactured in cal-
10 endar year 2008 or 2009 which meets or ex-
11 ceeds a 1.8 modified energy factor and does not
12 exceed a 7.5 water consumption factor,

13 “(C) \$150 in the case of a residential or
14 commercial clothes washer manufactured in cal-
15 endar year 2008, 2009, or 2010 which meets or
16 exceeds 2.0 modified energy factor and does not
17 exceed a 6.0 water consumption factor, and

18 “(D) \$250 in the case of a residential or
19 commercial clothes washer manufactured in cal-
20 endar year 2008, 2009, or 2010 which meets or
21 exceeds 2.2 modified energy factor and does not
22 exceed a 4.5 water consumption factor.

23 “(3) REFRIGERATORS.—The applicable amount
24 is—

1 “(A) \$50 in the case of a refrigerator
2 which is manufactured in calendar year 2008,
3 and consumes at least 20 percent but not more
4 than 22.9 percent less kilowatt hours per year
5 than the 2001 energy conservation standards,

6 “(B) \$75 in the case of a refrigerator
7 which is manufactured in calendar year 2008 or
8 2009, and consumes at least 23 percent but no
9 more than 24.9 percent less kilowatt hours per
10 year than the 2001 energy conservation stand-
11 ards,

12 “(C) \$100 in the case of a refrigerator
13 which is manufactured in calendar year 2008,
14 2009, or 2010, and consumes at least 25 per-
15 cent but not more than 29.9 percent less kilo-
16 watt hours per year than the 2001 energy con-
17 servation standards, and

18 “(D) \$200 in the case of a refrigerator
19 manufactured in calendar year 2008, 2009, or
20 2010 and which consumes at least 30 percent
21 less energy than the 2001 energy conservation
22 standards.”.

23 (b) ELIGIBLE PRODUCTION.—

1 (1) SIMILAR TREATMENT FOR ALL APPLI-
 2 ANCES.—Subsection (c) of section 45M (relating to
 3 eligible production) is amended—

4 (A) by striking paragraph (2),

5 (B) by striking “(1) IN GENERAL” and all
 6 that follows through “the eligible” and inserting
 7 “The eligible”, and

8 (C) by moving the text of such subsection
 9 in line with the subsection heading and redesign-
 10 nating subparagraphs (A) and (B) as para-
 11 graphs (1) and (2), respectively.

12 (2) MODIFICATION OF BASE PERIOD.—Para-
 13 graph (2) of section 45M(c), as amended by para-
 14 graph (1) of this section, is amended by striking “3-
 15 calendar year” and inserting “2-calendar year”.

16 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—
 17 Subsection (d) of section 45M (defining types of energy
 18 efficient appliances) is amended to read as follows:

19 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—
 20 For purposes of this section, the types of energy efficient
 21 appliances are—

22 “(1) dishwashers described in subsection (b)(1),

23 “(2) clothes washers described in subsection
 24 (b)(2), and

1 “(3) refrigerators described in subsection
2 (b)(3).”.

3 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

4 (1) INCREASE IN LIMIT.—Paragraph (1) of sec-
5 tion 45M(e) (relating to aggregate credit amount al-
6 lowed) is amended to read as follows:

7 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—
8 The aggregate amount of credit allowed under sub-
9 section (a) with respect to a taxpayer for any tax-
10 able year shall not exceed \$75,000,000 reduced by
11 the amount of the credit allowed under subsection
12 (a) to the taxpayer (or any predecessor) for all prior
13 taxable years beginning after December 31, 2007.”.

14 (2) EXCEPTION FOR CERTAIN REFRIGERATOR
15 AND CLOTHES WASHERS.—Paragraph (2) of section
16 45M(e) is amended to read as follows:

17 “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-
18 ERATORS AND CLOTHES WASHERS.—Refrigerators
19 described in subsection (b)(3)(D) and clothes wash-
20 ers described in subsection (b)(2)(D) shall not be
21 taken into account under paragraph (1).”.

22 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

23 (1) IN GENERAL.—Paragraph (1) of section
24 45M(f) (defining qualified energy efficient appliance)
25 is amended to read as follows:

1 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
 2 ANCE.—The term ‘qualified energy efficient appli-
 3 ance’ means—

4 “(A) any dishwasher described in sub-
 5 section (b)(1),

6 “(B) any clothes washer described in sub-
 7 section (b)(2), and

8 “(C) any refrigerator described in sub-
 9 section (b)(3).”.

10 (2) CLOTHES WASHER.—Section 45M(f)(3) (de-
 11 fining clothes washer) is amended by inserting
 12 “commercial” before “residential” the second place
 13 it appears.

14 (3) TOP-LOADING CLOTHES WASHER.—Sub-
 15 section (f) of section 45M (relating to definitions) is
 16 amended by redesignating paragraphs (4), (5), (6),
 17 and (7) as paragraphs (5), (6), (7), and (8), respec-
 18 tively, and by inserting after paragraph (3) the fol-
 19 lowing new paragraph:

20 “(4) TOP-LOADING CLOTHES WASHER.—The
 21 term ‘top-loading clothes washer’ means a clothes
 22 washer which has the clothes container compartment
 23 access located on the top of the machine and which
 24 operates on a vertical axis.”.

1 (4) REPLACEMENT OF ENERGY FACTOR.—Sec-
2 tion 45M(f)(6), as redesignated by paragraph (3), is
3 amended to read as follows:

4 “(6) MODIFIED ENERGY FACTOR.—The term
5 ‘modified energy factor’ means the modified energy
6 factor established by the Department of Energy for
7 compliance with the Federal energy conservation
8 standard.”.

9 (5) GALLONS PER CYCLE; WATER CONSUMP-
10 TION FACTOR.—Section 45M(f) (relating to defini-
11 tions), as amended by paragraph (3), is amended by
12 adding at the end the following:

13 “(9) GALLONS PER CYCLE.—The term ‘gallons
14 per cycle’ means, with respect to a dishwasher, the
15 amount of water, expressed in gallons, required to
16 complete a normal cycle of a dishwasher.

17 “(10) WATER CONSUMPTION FACTOR.—The
18 term ‘water consumption factor’ means, with respect
19 to a clothes washer, the quotient of the total weight-
20 ed per-cycle water consumption divided by the cubic
21 foot (or liter) capacity of the clothes washer.”.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to appliances produced after De-
24 cember 31, 2007.

TITLE III—REVENUE PROVISIONS

SEC. 301. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by inserting after clause (iii) the following new clause:

“(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).”.

(b) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

“For purposes of clause (iv), the term ‘primary product’ has the same meaning as when used in

1 section 927(a)(2)(C), as in effect before its re-
2 peal.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2007.

6 **SEC. 302. ELIMINATION OF THE DIFFERENT TREATMENT**
7 **OF FOREIGN OIL AND GAS EXTRACTION IN-**
8 **COME AND FOREIGN OIL RELATED INCOME**
9 **FOR PURPOSES OF THE FOREIGN TAX CRED-**
10 **IT.**

11 (a) IN GENERAL.—Subsections (a) and (b) of section
12 907 (relating to special rules in case of foreign oil and
13 gas income) are amended to read as follows:

14 “(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN
15 TAX UNDER SECTION 901.—In applying section 901, the
16 amount of any foreign oil and gas taxes paid or accrued
17 (or deemed to have been paid) during the taxable year
18 which would (but for this subsection) be taken into ac-
19 count for purposes of section 901 shall be reduced by the
20 amount (if any) by which the amount of such taxes ex-
21 ceeds the product of—

22 “(1) the amount of the combined foreign oil
23 and gas income for the taxable year,

24 “(2) multiplied by—

1 “(A) in the case of a corporation, the per-
 2 centage which is equal to the highest rate of tax
 3 specified under section 11(b), or

4 “(B) in the case of an individual, a frac-
 5 tion the numerator of which is the tax against
 6 which the credit under section 901(a) is taken
 7 and the denominator of which is the taxpayer’s
 8 entire taxable income.

9 “(b) COMBINED FOREIGN OIL AND GAS INCOME;
 10 FOREIGN OIL AND GAS TAXES.—For purposes of this sec-
 11 tion—

12 “(1) COMBINED FOREIGN OIL AND GAS IN-
 13 COME.—The term ‘combined foreign oil and gas in-
 14 come’ means, with respect to any taxable year, the
 15 sum of—

16 “(A) foreign oil and gas extraction income,
 17 and

18 “(B) foreign oil related income.

19 “(2) FOREIGN OIL AND GAS TAXES.—The term
 20 ‘foreign oil and gas taxes’ means, with respect to
 21 any taxable year, the sum of—

22 “(A) oil and gas extraction taxes, and

23 “(B) any income, war profits, and excess
 24 profits taxes paid or accrued (or deemed to
 25 have been paid or accrued under section 902 or

1 960) during the taxable year with respect to
 2 foreign oil related income (determined without
 3 regard to subsection (c)(4)) or loss which would
 4 be taken into account for purposes of section
 5 901 without regard to this section.”.

6 (b) RECAPTURE OF FOREIGN OIL AND GAS
 7 LOSSES.—Paragraph (4) of section 907(c) (relating to re-
 8 capture of foreign oil and gas extraction losses by re-
 9 characterizing later extraction income) is amended to read
 10 as follows:

11 “(4) RECAPTURE OF FOREIGN OIL AND GAS
 12 LOSSES BY RECHARACTERIZING LATER COMBINED
 13 FOREIGN OIL AND GAS INCOME.—

14 “(A) IN GENERAL.—The combined foreign
 15 oil and gas income of a taxpayer for a taxable
 16 year (determined without regard to this para-
 17 graph) shall be reduced—

18 “(i) first by the amount determined
 19 under subparagraph (B), and

20 “(ii) then by the amount determined
 21 under subparagraph (C).

22 The aggregate amount of such reductions shall
 23 be treated as income (from sources without the
 24 United States) which is not combined foreign
 25 oil and gas income.

1 “(B) REDUCTION FOR PRE-2008 FOREIGN
2 OIL EXTRACTION LOSSES.—The reduction
3 under this paragraph shall be equal to the less-
4 er of—

5 “(i) the foreign oil and gas extraction
6 income of the taxpayer for the taxable year
7 (determined without regard to this para-
8 graph), or

9 “(ii) the excess of—

10 “(I) the aggregate amount of for-
11 eign oil extraction losses for preceding
12 taxable years beginning after Decem-
13 ber 31, 1982, and before January 1,
14 2008, over

15 “(II) so much of such aggregate
16 amount as was recharacterized under
17 this paragraph (as in effect before
18 and after the date of the enactment of
19 the Energy Advancement and Invest-
20 ment Act of 2007) for preceding tax-
21 able years beginning after December
22 31, 1982.

23 “(C) REDUCTION FOR POST-2008 FOREIGN
24 OIL AND GAS LOSSES.—The reduction under
25 this paragraph shall be equal to the lesser of—

1 “(i) the combined foreign oil and gas
 2 income of the taxpayer for the taxable year
 3 (determined without regard to this para-
 4 graph), reduced by an amount equal to the
 5 reduction under subparagraph (A) for the
 6 taxable year, or

7 “(ii) the excess of—

8 “(I) the aggregate amount of for-
 9 eign oil and gas losses for preceding
 10 taxable years beginning after Decem-
 11 ber 31, 2007, over

12 “(II) so much of such aggregate
 13 amount as was recharacterized under
 14 this paragraph for preceding taxable
 15 years beginning after December 31,
 16 2007.

17 “(D) FOREIGN OIL AND GAS LOSS DE-
 18 FINED.—

19 “(i) IN GENERAL.—For purposes of
 20 this paragraph, the term ‘foreign oil and
 21 gas loss’ means the amount by which—

22 “(I) the gross income for the tax-
 23 able year from sources without the
 24 United States and its possessions
 25 (whether or not the taxpayer chooses

1 the benefits of this subpart for such
 2 taxable year) taken into account in
 3 determining the combined foreign oil
 4 and gas income for such year, is ex-
 5 ceeded by

6 “(II) the sum of the deductions
 7 properly apportioned or allocated
 8 thereto.

9 “(ii) NET OPERATING LOSS DEDUC-
 10 TION NOT TAKEN INTO ACCOUNT.—For
 11 purposes of clause (i), the net operating
 12 loss deduction allowable for the taxable
 13 year under section 172(a) shall not be
 14 taken into account.

15 “(iii) EXPROPRIATION AND CASUALTY
 16 LOSSES NOT TAKEN INTO ACCOUNT.—For
 17 purposes of clause (i), there shall not be
 18 taken into account—

19 “(I) any foreign expropriation
 20 loss (as defined in section 172(h) (as
 21 in effect on the day before the date of
 22 the enactment of the Revenue Rec-
 23 onciliation Act of 1990)) for the tax-
 24 able year, or

1 “(II) any loss for the taxable
 2 year which arises from fire, storm,
 3 shipwreck, or other casualty, or from
 4 theft,
 5 to the extent such loss is not compensated
 6 for by insurance or otherwise.

7 “(iv) FOREIGN OIL EXTRACTION
 8 LOSS.—For purposes of subparagraph
 9 (B)(ii)(I), foreign oil extraction losses shall
 10 be determined under this paragraph as in
 11 effect on the day before the date of the en-
 12 actment of the Energy Advancement and
 13 Investment Act of 2007.”.

14 (c) CARRYBACK AND CARRYOVER OF DISALLOWED
 15 CREDITS.—Section 907(f) (relating to carryback and car-
 16 ryover of disallowed credits) is amended—

17 (1) by striking “oil and gas extraction taxes”
 18 each place it appears and inserting “foreign oil and
 19 gas taxes”, and

20 (2) by adding at the end the following new
 21 paragraph:

22 “(4) TRANSITION RULES FOR PRE-2008 AND
 23 2008 DISALLOWED CREDITS.—

24 “(A) PRE-2008 CREDITS.—In the case of
 25 any unused credit year beginning before Janu-

1 ary 1, 2008, this subsection shall be applied to
2 any unused oil and gas extraction taxes carried
3 from such unused credit year to a year begin-
4 ning after December 31, 2007, by substituting
5 ‘oil and gas extraction taxes’ for ‘foreign oil and
6 gas taxes’ each place it appears in paragraphs
7 (1), (2), and (3), and by substituting ‘foreign
8 oil and gas extraction income’ for ‘foreign oil
9 and gas income’ in applying subsection (a) for
10 each relevant year.

11 “(B) 2008 CREDITS.—In the case of any
12 unused credit year beginning in 2008, the
13 amendments made to this subsection by the En-
14 ergy Advancement and Investment Act of 2007
15 shall be treated as being in effect for any pre-
16 ceding year beginning before January 1, 2008,
17 solely for purposes of determining how much of
18 the unused foreign oil and gas taxes for such
19 unused credit year may be deemed paid or ac-
20 rued in such preceding year.”.

21 (d) CONFORMING AMENDMENT.—Section 6501(i) is
22 amended by striking “oil and gas extraction taxes” and
23 inserting “foreign oil and gas taxes”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2007.

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